IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3730 of 1995

To

FIRST APPEAL No. 3768 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ARUN LAND CORPORATION,PROP. MANIBHAI M PATEL

Versus

SPL.LAND ACQUISITION OFFICER

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Appearance:

MR C.C. Bhalja for appellant.

Mr. B.Y. Mankad, AGP for Respondent No. 1

MRS KETTY A MEHTA for Respondent No. 2

MR RN SHAH for Respondent No. 3

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CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE K.A.PUJ

Date of decision: 26/03/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

All the above Appeals have been filed by the original-claimants No.2, Arun Land Development Corporation under Section 54 of the Land Acquisition Act, 1894, (to be referred to as "the Act") claiming enhanced compensation for the acquired lands situated at Village Gorva by challenging common judgment and award dated April 18, 1995 passed by the learned Second Extra Assistant Judge, Baroda, in Land Reference Cases No. 3/82 to 5/82, Land Reference Cases No. 76/83 to 79/83, Land Reference Cases No. 91/83 to 98/83, 100/83, 103/83 to 109/83, 113/83, 114/83, 118/83, 125/83, 132, 133, 137 to 142/83, 145/83, 146/83, 148/83, 164/83, 153/83 and 158/83.

2. The Notification under Section 4(1) of the Act for acquiring the lands of Village-Gorva admeasuring 78 hector, 32 R.A. and 54 Sq.mtrs. was published in the Government Gazette on August 8, 1974. After the usual formalities followed by the Land Acquisition Officer under the Act, award under Section 11 was made on October 10, 1980 and the Land Acquisition Officer had offered compensation for the acquired lands by dividing the same into four categories, namely for category A 0.93 ps. per sq.ft (Rs. 1 lakh per hectare); for category B Rs. 1.21 per sq.ft. (Rs. 1.30 lakh per hectare); for category C Rs. 1.40 per sq.ft. (Rs. 1.50 lakh per hectare); and for category D Rs. 1.50 per sq.ft. (Rs. 1.70 lakh per hectare). The claimants, dissatisfied with the award of the Land Acquisition Officer filed application under Section 18 of the Act requiring the Land Acquisition Officer to refer the applications to the District Court for determination of the compensation for the acquired lands. Accordingly, the said applications were referred to the District Court, Vadodara, where they came to be numbered as Land Reference Cases as mentioned above by the Reference Court. During the pendency of the above Land Reference Cases the appellant, who had subsequently entered into agreement with the original-claimants, was joined as claimant No.2. The Reference Court, on the overall appreciation of the oral as well as documentary evidence, determined the market value of the present acquired lands of the Village Gorva, following the decision of this High Court in First Appeal No. 31 of 1988 to 66 of 1988 at the rate of Rs. 1.88 ps. per sq.ft. The original-claimant No.2 has challenged the above judgment and award of the Reference Court by filing

this appeal claiming enhanced compensation at the rate of Rs. 4/- per sq.ft.

3. It may be mentioned that the judgment of the Gujarat High Court, rendered in First Appeals No. 31 of 1988 to 266 of 1988, was challenged by the claimants by filing Civil Appeals No. 5354 of 1993 to 5389 of 1993, wherein the Supreme Court, by order dated February 6, 2002, had determined the market value of the acquired lands of Village-Gorva, as on the date of the notification, i.e., May 15, 1974 at Rs. 2/= per sq.ft. The present Appeals are also arising from the very notification published on May 15, 1974. Therefore, these appeals will be squarely covered by the judgment of the Supreme Court rendered in Civil Appeals No. 5354 of 1993 to 5389 of 1993, wherein the market value of the same acquired lands of Village-Gorva was determined at Rs. 2/= per sq.ft. In view of the above stated facts, these appeals will have to be partly allowed to the extent that the claimants shall be entitled to enhance compensation of acquired lands of Village-Gorva at the rate of Rs. 2.00 per sq.ft. The claimants shall be entitled to statutory benefit under Section 23(2) of the Act as well as interest under Section 28 of the Act. The common Judgment and award of the Reference Court stands modified to the above extent. The learned counsel for the original-claimant No.1 has made a statement at the Bar that the claimant No.2 present-appellant, shall be entitled to receive the amount of enhanced compensation of the acquired lands as per the new agreement arrived at between the claimant No.1 and the claimant No.2. In view of the statement made by the learned counsel for the claimant No.1, Mr. R.N. Shah, the direction as to payment of the enhanced compensation to the present appellant, namely Arun Land Development Corporation, stands confirmed. The Appeals stand allowed to the aforesaid extent. No order as to costs. The Award be amended accordingly.

[ M.H. Kadri, J. ]

rmr. [ K.A. Puj, J. ]